

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
)
EASTERN LIVESTOCK CO., LLC,) Case No. 10-93904-BHL-11
)
)
Debtor.) Hon. Basil H. Lorch III

**TRUSTEE'S MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH TURNER COUNTY STOCKYARDS, INC.**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the bankruptcy estate (the "Estate") of Eastern Livestock Co., LLC ("Debtor"), by counsel, respectfully moves the Court to approve a compromise and settlement of claims between the Trustee and Turner County Stockyards, Inc. ("Turner"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. Certain petitioning creditors commenced the above-captioned chapter 11 case ("Chapter 11 Case") on December 6, 2010 (the "Petition Date"). The Court entered the *Order For Relief in An Involuntary Case and Order to Complete Filing* [Docket No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the *Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 102] approving the *United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee* [Docket No. 98] pursuant to 11 U.S.C. § 1104.

3. The Trustee filed the *Trustee's Chapter 11 Plan of Liquidation* on July 23, 2012 [Docket No. 1255] and the *First Amended Chapter 11 Plan of Liquidation* on October 26,

2012 [Docket No. 1490] ("Plan"). The Court entered an Order on December 17, 2012 [Docket No. 1644] ("Confirmation Order") confirming the Plan.

4. The Trustee contends that prior to the Chapter 11 Case, Debtor purchased a number of lots of cattle from or through Turner (the "Turner Cattle"). One such purchase was for 65 head of cattle that were delivered to J&F Oklahoma Holdings, Inc. ("J&F") or one of its feedyards and another purchase was for 69 head of cattle that were delivered to Friona Industries, L.P. ("Friona") or one of its feedyards.

5. J&F interpled \$48,324.96 for the Turner Cattle that it received ("J&F Interpled Funds"), with the Court in connection with Adversary Proceeding No. 11-59093 (the "Adversary") and Friona interpled \$50,784.57 for the Turner Cattle that it received ("Friona Interpled Funds" and collectively the "Interpled Funds").

6. Turner filed its Answer, Counterclaim and CrossClaim to the Original Complaint filed by J&F while the Adversary was still pending in the U.S. District Court for the Northern District of Texas, asserting a claim to the J&F Interpled Funds. Additionally, Turner filed its Answer, Counterclaim and Crossclaim to the Original Complaint filed by Friona while the Adversary was still pending in the U.S. District Court for the Northern District of Texas, asserting a claim to the Friona Interpled Funds. Turner now agrees and acknowledges that its claim in the Friona Interpled Funds is limited to \$47,944.57. Thus, Turner's total claim to the Interpled Funds is \$96,269.53.

7. The Trustee contends that the Interpled Funds are property of Debtor's bankruptcy estate.

8. On April 29, 2011, Turner filed a proof of claim (the "Turner POC") in the Chapter 11 Case. The Turner POC is designated on the official claims register maintained by

The BMC Group, Inc. as claim no. 375. The Turner POC asserts a total claim against Debtor in the amount of \$143,425.13, which includes claims that are unrelated to the Interpled Funds.

The Settlement

9. The Trustee has negotiated a settlement of Turner's claims on the terms set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A ("Settlement Agreement"). Pursuant to the Settlement Agreement, the Trustee and Turner have agreed to divide the Interpled Funds, with Turner receiving \$9,626.95 of the Interpled Funds (the "Settlement Payment") and the Trustee receiving the remaining \$86,642.58 of the Interpled Funds. As of Turner's receipt of the Settlement Payment, the Turner POC shall be deemed to have been amended, without further action by either the Trustee or Turner, to assert an unsecured claim in the total amount of \$133,798.18 (the "Turner Allowed Claim"). The parties shall release and waive all other claims related to the Turner Cattle.

10. In accordance with the terms of the Plan, the \$86,642.58 of Interpled Funds received by the Trustee shall become part of the Collateral Fund (as that term is defined in the Plan).

Basis for Relief

11. Pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

12. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M.

Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

13. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The Settlement Payment is less than the Trustee would be required to spend to obtain a judgment as to the relative rights in and to the Interpled Funds. Accordingly, continued litigation with Turner would result in significant expenses and delay and a smaller recovery to the estate.

14. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter an order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

Terry E. Hall (#22041-49)
Kevin M. Toner (#11343-49)
Harmony Mappes(#27237-49)
Dustin R. DeNeal (#27535-49)
Shawna Meyer Eikenberry (#21615-53)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
kevin.toner@faegrebd.com
terry.hall@faegrebd.com
harmony.mappes@faegrebd.com
dustin.deneal@faegrebd.com
shawna.eikenberry@faegrebd.com

Counsel for James A. Knauer, Chapter 11 Trustee

Wendy W. Ponader (#14633-49)
Jay Jaffe (5037-98)
600 East 96th Street, Suite 600
Indianapolis, IN 46240
Telephone: (317) 569-9600
Facsimile: (317) 569-4800
wendy.ponader@faegrebd.com

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2014, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

Amelia Martin Adams
aadams@dlgfirm.com

John W. Ames
james@bgdlegal.com

Kay Dee Baird
kbaIRD@kdlegal.com

Christopher E. Baker
cbaker@thblkaw.com

Robert A. Bell
rabell@vorys.com

C. R. Bowles, Jr
cbowles@bgdlegal.com

David W. Brangers
dbrangers@lawyer.com

Steven A. Brehm
sbrehm@bgdlegal.com

Kent A Britt
kabritt@vorys.com

Kayla D. Britton
kayla.britton@faegrebd.com

Joe Lee Brown
Joe.Brown@Hardincounty.biz

Lisa Koch Bryant
courtmail@fbhllaw.net

John R. Burns, III
john.burns@faegrebd.com

John R. Carr, III
jrciii@acs-law.com

Deborah Caruso dcaruso@daleeke.com	Ben T. Caughey ben.caughey@icemiller.com	Bret S. Clement bclement@acs-law.com
Joshua Elliott Clubb joshclubb@gmail.com	Jason W. Cottrell jwc@stuartlaw.com	Kirk Crutcher kcrutcher@mcs-law.com
Jack S. Dawson jdawson@millerdollarhide.com	Dustin R. DeNeal dustin.deneal@faegrebd.com	Laura Day Delcotto ldelcotto@dlgfirm.com
David Alan Domina dad@dominalaw.com	Daniel J. Donnellon ddonnellan@fclaw.com	Trevor L. Earl tearl@rwsvlaw.com
Shawna M. Eikenberry shawna.eikenberry@faegrebd.com	Jeffrey R. Erler jerler@ghjhlaw.com	William K. Flynn wkflynn@strausstroy.com
Robert Hughes Foree robertforee@bellsouth.net	Sandra D. Freeburger sfreeburger@dsf-atty.com	Melissa S. Giberson msgiberson@vorys.com
Thomas P. Glass tpglass@strausstroy.com	Patrick B. Griffin patrick.griffin@kutakrock.com	Terry E. Hall terry.hall@faegrebd.com
Paul M. Hoffman paul.hoffmann@stinsonleonard.com	John David Hoover jdhoover@hooverhull.com	John Huffaker john.huffaker@sprouselaw.com
Jeffrey L. Hunter jeff.hunter@usdoj.gov	Jay Jaffe jay.jaffe@faegrebd.com	James Bryan Johnston bjtexas59@hotmail.com
Todd J. Johnston tjohnston@mcjlp.com	Jill Zengler Julian Jill.Julian@usdoj.gov	Jay P. Kennedy jpk@kgrlaw.com
Edward M. King tking@fbtlaw.com	James A. Knauer jak@kgrlaw.com	Erick P. Knoblock eknoblock@daleeke.com
Theodore A. Konstantinopoulos ndohbky@jbandr.com	Randall D. LaTour rdlatour@vorys.com	David A. Laird david.laird@moyewhite.com
David L. LeBas dlebas@namanhowell.com	Martha R. Lehman mlehman@kdlegal.com	Scott R. Leisz sleisz@bgdlegal.com
Elliott D. Levin edl@rubin-levin.net	Kim Martin Lewis kim.lewis@dinslaw.com	James B. Lind jblind@vorys.com
Karen L. Lobring lobring@msn.com	Jason A. Lopp jlopp@wyattfirm.com	John Hunt Lovell john@lovell-law.net
Harmony A. Mappes harmony.mappes@faegrebd.com	John Frederick Massouh john.massouh@sprouselaw.com	Michael W. McClain mmcclain@mcclaindeweес.com
Kelly Greene McConnell lisahughes@givenspursley.com	James Edwin McGhee mcghee@derbycitylaw.com	Brian H. Meldrum bmeldrum@stites.com
William Robert Meyer, II rmeyer@stites.com	Kevin J. Mitchell kevin.mitchell@faegrebd.com	Terrill K. Moffett kendalcantrell@moffettlaw.com
Allen Morris amorris@stites.com	Judy Hamilton Morse judy.morse@crowedunlevy.com	Erin Casey Nave enave@taftlaw.com
Matthew Daniel Neumann mneumann@hhclaw.com	Walter Scott Newbern wsnewbern@msn.com	Shiv Ghuman O'Neill shiv.oneill@faegrebd.com
Matthew J. Ochs kim.maynes@moyewhite.com	Jessica Lynn Olsheski jessica.olsheski@justice-law.net	Michael Wayne Oyler moyer@rwsvlaw.com
Ross A. Plourde ross.plourde@mcafeetaft.com	Brian Robert Pollock bpollock@stites.com	Wendy W. Ponader wendy.ponader@faegrebd.com
Timothy T. Pridmore tpridmore@mcjlp.com	Anthony G. Raluy traluy@fbhlaw.net	Eric C. Redman ksmith@redmanludwig.com

Eric W. Richardson ewrichardson@vorys.com	Joe T. Roberts jratty@windstream.net	David Cooper Robertson crobertson@stites.com
Mark A. Robinson mrobinson@vhrlaw.com	Jeremy S. Rogers Jeremy.Rogers@dinslaw.com	John M. Rogers johnr@rubin-levin.net
Joseph H. Rogers jrogers@millerdollarhide.com	James E. Rossow jim@rubin-levin.net	Steven Eric Runyan ser@kgrlaw.com
Niccole R. Sadowski nsadowski@thbkaw.com	Thomas C. Scherer tscherer@bgdlegal.com	Stephen E. Schilling seschilling@straussstroy.com
Ivana B. Shallcross ishallcross@bgdlegal.com	Sarah Elizabeth Sharp sarah.sharp@faegrebd.com	Suzanne M Shehan suzanne.shehan@kutakrock.com
James E. Smith, Jr. jsmith@smithakins.com	William E. Smith, III wsmith@k-glaw.com	Amanda Dalton Stafford ads@kgrlaw.com
Joshua N. Stine kabritt@vorys.com	Andrew D. Stosberg astosberg@lloydmc.com	Matthew R. Strzynski indyattorney@hotmail.com
Meredith R. Theisen mtheisen@daleeke.com	John M. Thompson john.thompson@crowedunlevy.com	Kevin M. Toner kevin.toner@faegrebd.com
Christopher M. Trapp ctrapp@rubin-levin.net	Chrisandrea L. Turner clturner@stites.com	U.S. Trustee ustpregion10.in.ecf@usdoj.gov
Andrew James Vandiver avandiver@aswdlaw.com	Andrea L. Wasson andrea@wassonthornhill.com	Jennifer Watt jwatt@kgrlaw.com
Stephen A. Weigand sweigand@ficlaw.com	Charles R. Wharton Charles.R.Wharton@usdoj.gov	Sean T. White swhite@hooverhull.com
Michael Benton Willey michael.willey@ag.tn.gov	Jason P. Wischmeyer jason@wischmeyerlaw.com	James T. Young james@rubin-levin.net

I further certify that on April 24, 2014, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Thomas Richard Alexander, II
tra@rgba-law.com

/s/ Shawna Meyer Eikenberry